

REMARKS

Applicant respectfully requests reconsideration and allowance of this application. By this Amendment, Applicant has amended claims 1 and 2, and added new claims 11-13. Claim 1 has been amended to clarify the recited subject matter and correct informalities. Claim 2 has been amended to be consistent with the changes to claim 1. Claims 11-13 have added to capture additional scope of Applicant's invention. Support for the changes to claim 1 may be found in Applicant's specification at, for example, page 11, line 29 to page 12, line 5, and page 15, lines 1-15.

In the Final Office Action, the Examiner rejected claims 1-11 under 35 U.S.C. § 103, as allegedly not being patentable over U.S. Patent Application Publication No. 2003/0032417 by *Minear et al.* ("Minear") in view of U.S. Patent Application Publication No. 2004/0076131 by *Qu et al.* ("Qu"). Applicant traverses this rejection for the reasons set forth below.

At the outset, Applicant advises that the rejection of claim 1 refers to the "Ritter" reference. In reply to the first Office Action, Applicant noted this same error and responded under the assumption that the Examiner intended to rely on the *Minear* reference instead. Because the Final Office Action does not say otherwise and because the Examiner's arguments are based on *Minear* (Office Action, pp. 2-3), Applicant will continue to assume that the Examiner relies on *Minear* rather than the Ritter reference.

The purported combination of *Minear* and *Qu* cannot support a rejection of claim 1 under Section 103 because neither reference discloses or suggests, "extracting [a] first application part and [a] second application part from [an] application message based on [a] descriptor" (emphasis added).

The Examiner concedes that *Minear* also does not disclose or suggest, among other features, "installing in the terminal the first application part extracted from the

application message," as recited in claim 1. (Office Action, p. 5:3-4.) In addition, *Minear* is silent with regard to the claimed "extracting... based on a descriptor."

With regard to claim 2, the Examiner apparently asserts that *Qu* discloses application data includes information corresponding to Applicant's claimed "descriptor." (Office Action, p. 6.) To the contrary, *Qu* only extracts application data that is to be sent to a removable module. (*Qu*, ¶¶ 0067-0069; FIG. 6.) Application data that is not sent to a removable module is discarded without being extracted. (*Qu*, ¶ 0069, FIG. 6.) Thus, *Qu* does not disclose "extracting the first application part and the second application part from the application message based on the descriptor," as recited in Applicant's claim 1. For the same reasons, *Qu* also does not teach or suggest "installing in the terminal the first application part extracted from the application message" (emphasis added), as recited in claim 1.

Because *Minear* and *Qu* fail to disclose or suggest the above-noted features of claim 1, the references, whether taken individually or in combination, cannot support a rejection of claim 1 under 35 U.S.C. § 103(a). Accordingly, claim 1 is allowable over the purported combination of *Minear* and *Qu*.

Moreover, there is no reason why a person of ordinary skill in the art would make the purported combination. *Minear* merely discloses loading application components into a cellular telephone. But *Minear* says nothing with regard to a removable media. In contrast, *Qu* only discloses loading application into a removable media, and discards the other data included in a message. (*Qu*, ¶¶ 0067-0069; FIG. 6.) There is no nexus between *Minear* and *Qu* that would suggest "installing in the terminal the first application part" and "loading the second application part ... into the chip card," as recited in claim 1. The Examiner alleges the purported combination would "provide [for] efficiently download[ing] application data." (Office Action, p. 5:20-21.) However, nothing in either reference or the rational offered by the Examiner suggests that downloading application data to both a cellular telephone and a

removable media in the telephone is somehow more efficient. Indeed, the Examiner's reasons for combining the applied references essentially paraphrases Applicant's own claims. (Office Action, p. 5:12-21.) Thus, Applicant respectfully submits that the Examiner's only motivation for making the purported combination was based on knowledge gleaned from Applicant's own disclosure. (See, e.g., Office Action, p. 5:12-20; Applicant's specification, p. 4:3-14.) Such improper hindsight reconstruction cannot support a *prima facie* case for rejecting Applicant's claim 1. Accordingly, claim 1 is allowable over the applied references for this reason as well. Claims 2-11 are also allowable at least due to their dependence from claim 1

New claims 11-13, although of different scope than claim 1, recite features similar to those recited in claim 1. For instance, claim 11 recites, "extracting the first application part and the second application part from the application message based on the descriptor" and "installing the first application part extracted from the application message in the terminal." As noted above, the applied references fail to teach or suggest at least these features of claim 1. Accordingly, the applied references fail to teach or suggest the similar features recited in claims 11-13. Thus, claims 11-13 are allowable over the applied references for similar reasons to those set forth above with regard to claim 1.

In addition, Applicant submits that neither *Minear* nor *Qu* teaches or suggests a "message including a first part identified for installation on the terminal and a second part identified for installation on a chip card accepted in the terminal" (emphasis added), as recited, for example, in claim 11. Similar features are recited in claims 12 and 13. Claims 11-13 are, therefore, allowable over the applied references for this reason as well.

Conclusion

For the reasons set forth above, Applicant respectfully requests allowance of the pending claims. In the event that there are any questions concerning this paper, or the application in general, the Examiner is respectfully urged to telephone Applicant's undersigned representative so that prosecution of the application may be expedited.

It is believed that this Amendment is accompanied by the required fees. However, if additional fees are required for any reason, please charge Deposit Account No. 02-4800 the necessary amount.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: December 18, 2007 By: /Steven L. Ashburn/
Steven L. Ashburn
Registration No. 56,636

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620